

**Harrisburg Housing Authority**

**Section 3 Clause**

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## **SECTION 3 CLAUSE**

The Harrisburg Housing Authority will provide to each Solicitation Bid, A copy of the Section 3 Clause in relation to the Section 3 requirements under the Housing and Urban Development act of 1968, as amended, 12 U.S.C. 1701u (Section 3).

### **A.-E. Purpose/General Requirements**

- A.** The work to be performed in connection with the underlying contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 should if possible and to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B.** The parties to the underlying contract agree to comply with HUD's regulations in 24 CFR, Part 135, which implements Section 3. As evidenced by their execution of the Section 3 certification, the parties to the underlying contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 Regulations.
- C.** The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's representative of the contractor's commitments under this Section 3 Clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 Preference, shall set forth the minimum number of positions and job titles subject to hire, the availability of apprenticeship and training positions along with qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D.** The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 Clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR, part 135.
- E.** The contractor will certify that any vacant employment positions, including training positions, that are filled: (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR, part 135.

**Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of the underlying contract for default, and debarment or suspension from future HUD assisted contracts.**

**F. Section 3 Regulations (numerical goals)**

1. When contractors and/or sub-contractor triggers the Section 3 regulations by adding new hires, the contractors and/or sub-contractors are required, to the greatest extent feasible, to initially, reach out to the residents of the Harrisburg Housing Authority concerning the opportunity for employment, contracts and/or training, thereafter the contractors and/or sub-contractors must direct these opportunities to other low income people in the community where the project is located.
2. All contractors and/or sub-contractors that trigger the Section 3 regulations, must document every effort that was made to offer and fill the employment, contract and/or training opportunity with a Section 3 person or business.
3. The minimum requirements for documenting solicitation of a Section 3 person or business include: distributing flyers, placing ads, local media, community organizations, and posting signs in the resident relations office, community rental offices and in and around the community where the covered contract has been awarded. (Refer to H. "Geographical Area Tier System" below for a description of the required solicitation area and individuals)
4. The contractors and/or sub-contractors must prove that he or she has made every effort to notify The Harrisburg Housing Authority's residents, those Section 3 residents within a 15 mile radius of the covered contract area, and those Section 3 residents within the current metropolitan service area in which the covered contract lies of the contractors opportunities for employment, contracts, and/or training. If the contractors and/or sub-contractors prove these efforts and the contractors and/or sub-contractors were unable to solicit Section 3 persons or businesses, then at that time the contractors and/or sub-contractors may open up these opportunities to other non-Section 3 persons or contractors.
5. Documentation of all contractors and/or sub-contractors efforts to provide employment, contracts, and/or training to Section 3 persons or businesses must be presented to the Section 3 compliance office before moving forward.
6. All contractors and/or sub-contractors that have not met the Section 3 regulations set forth in this section have the burden of demonstrating why it was not feasible to meet these regulations.
7. Section 3 regulations are mandated by HUD and are required by all contractors and/or subcontractors. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of the contract for default, and debarment or suspension from future HUD assisted contracts.

**G. Resident Relations**

Contractors and/or sub-contractors may contact the Resident Relations office of the Harrisburg Housing Authority for possible Section 3 applicants, business concerns and joint venture candidates for hire.

**H. Geographical Area Tier System: (starting point for residents)**

1. Harrisburg Housing Authority residents & Section 8 residents
2. The 15 mile radius surrounding the covered contract area
3. Current MSA (Metropolitan Service Area) in which the contract lie

**I. Hiring and Contracting Obligations (Section 3 / Business Concerns)**

Hiring Obligation

To the greatest extent feasible, all contractors and/or sub-contractors who are a party to the underlying Section 3 covered contract will commit to hiring 30 percent of Section 3 new hires, or maintaining at least 30 percent full time permanent employees that are Section 3 residents within 3 years of being employed.

Contracting Obligation

To the greatest extent feasible, all contractors and/or sub-contractors who are a party to the underlying contract will commit to awarding at least 10 percent of the total contract amount to Section 3 business concerns, and at least 3 percent of the total contract amount of all covered non-construction contracts to be awarded to Section 3 business concerns.

**J. Section 3 Applicants Proving Eligibility**

A person seeking the training and employment preference provided by Section 3 covered assistance, has the responsibility of providing evidence (if requested) that the person is eligible for the preference. The willful falsification of an individual's Section 3 status may subject the individual to civil or criminal prosecution. (See, 18 USC § 1001 and 31 USC § 231)

Nothing will be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

**K. Training Fund**

As an alternative, Section 3 compliance can be archived by contributing into the Harrisburg Housing Authority's Section 3 Training fund in the amount specified in the section below. This does not apply to sub-contractors. This applies to the base contract amount for the prime contractor and is not assessed to subsequent change orders or addendums.

When the contract amount is **less than \$100,000**

5 % of base contract, or \$4,500

**At least \$100,000, but less than \$200,000**

4.5 % of base contract, or \$8,000

**At least \$200,000, but less than \$300,000**

4 % of base contract, or \$10,500

**At least \$300,000, but less than \$400,000**

3.5 % of base contract, or \$12,000

**At least \$400,000, but less than \$500,000**

3 % of base contract, or \$12,500

**At least \$500,000, but less than \$1 million**

2.5 % of base contract, or \$20,000

**At least \$1 million, but less than \$2 million**

2 % of base contract, or \$30,000

**At least \$2 million, but less than \$4 million**

1.5 % of base contract, or \$40,000

**At least \$4 million, but less than \$7 million**

1 % of base contract, or \$52,500

**\$7 million or more**

.75 % of base contract

**L. Preference for Section 3 Certified Contractors**

1. An award shall be given to the qualified and responsible Section 3 Business Concern with the lowest responsive bid, if that bid is:
  - a. Within the maximum total contract price established in the contracting budget for the specific project for which bids are being taken, and
  - b. Not more than "X" higher than the total bid price of the lowest responsive bid from any responsible, responsive bidder.

"X" is determined as follows,

X= the lesser of:

When the lowest responsive bid is **less than \$100,000**

10 % of that bid or \$ 9,000

**At least \$100,000, but less than \$200,000**

9% of that bid, or \$16,000

**At least \$200,000, but less than \$300,000**

8% of that bid, or \$21,000

**At least \$300,000, but less than \$400,000**

7% of that bid, or \$24,000

**At least \$400,000, but less than \$500,000**

6% of that bid, or \$25,000

**At least \$500,000, but less than \$1 million**

5% of that bid, or \$40,000

**At least \$1 million, but less than \$2 million**

4% of that bid, or \$60,000

**At least \$2 million, but less than \$4 million**

3% of that bid, or \$80,000

**At least \$4 million, but less than \$7 million**

2% of that bid, or \$105,000

**\$7 million or more**

1-1/2% of the lowest responsive bid, with no dollar limit

If no responsive bid by a Section 3 business concern meets the requirements of section L. of this clause, the contract shall be awarded to a responsive bidder with the lowest responsive bid.

**M. Section 3 Business Concern**

Is a business in which:

1. 51 percent of the business, or more, is owned by Section 3 residents; or
2. Is a business that at least 30 percent of its permanent, full time employees include people who are currently Section 3 residents, or within three years of the date of their first employment with the business were Section 3 residents; or
3. A business that provides evidence of a commitment to sub-contract in excess of 25 percent of the dollar award of all sub-contracts to be awarded to business concerns that meet the qualifications set forth in paragraphs 1. or 2.

**N. Fines for Non-Compliance**

Contractors found to have violated the terms of this clause are liable for fines in an amount equal to the amounts paid into the training fund as specified above in section K. The Harrisburg Housing Authority will not consider the contractor responsive for future contracts for a period of 120 days after the fine is paid.

**O. Contractors That are Unable to Engage in Opportunities for Section 3/Business**

For contractors that do not engage in training, employment, and contracting opportunities for Section 3 residents, the contractor must contribute to the Harrisburg Housing Authority training fund. For all contracts awarded to sub-contractors, the prime contractor must ensure that, to the greatest extent feasible, all sub-contractors will provide training, employment, contracting, and joint venture opportunities to Section 3 residents and business concerns of the Harrisburg Housing Authority.

**P. Section 3 Joint Venture**

A Section 3 joint venture is an association of business concerns, one of which qualifies as a Section 3 business concern, formed by a written joint venture agreement to engage in and carry out a specific business venture where the business concerns combine their efforts, resources, skills and knowledge for joint profit, but not necessarily on a continuing or permanent basis and for which the Section 3 business concern is responsible for a clearly defined portion of the work to be performed and:

- i. Holds management responsibilities in the venture, and
- ii. Performs at least 25 percent of the work and
- iii. Is contractually entitled to compensation proportionate to its work.



**SECTION 3 CONTRACTOR'S CERTIFICATION**

The Bidder certifies that they are ( ) or, are not ( ) a Section 3 Contractor as defined by the Housing and Urban Development Act of 1968 as amended, and defined in the definitions found at 24 CFR 135.5, as follows:

A Section 3 business concern, means a business concern, as defined in this section- (check appropriate field)

- ( ) That is 51 percent or more owned by Section 3 residents; or
- ( ) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- ( ) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) of this definition of "Section 3 Business Concern."

Corporate Seal

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

Before me, the undersigned Notary Public, this day personally appeared \_\_\_\_\_ who being dully sworn to law, deposes and says that he is \_\_\_\_\_ of \_\_\_\_\_, and that the foregoing is true and correct.

\_\_\_\_\_  
Notary Public

SUBSCRIBED AND SWORN TO BEFORE ME This \_\_\_\_\_ day of \_\_\_\_\_ AD: 20\_\_\_\_\_



## ASSURANCE OF COMPLIANCE (Section 3, HUD ACT of 1968)

### TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR BUSINESS AND LOWER INCOME PERSONS

A. The project assisted under this (contract) (agreement) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 170U. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

B. Notwithstanding any other provision of this (contract) (agreement), the (applicant) (recipient) shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued there under prior to the execution of this (contract) (agreement). The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulation, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 Clause" specified by Section 135.20 (b) of the regulations in all contracts for work in connection with the project. The (applicant) (recipient) certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

C. Compliance with the provisions of the Section 3 Clause of this covered contract, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued there under prior to approval by the Government of the application for this (contract) (agreement), shall be a condition of the Federal financial assistance provided to the project, binding upon the (applicant) (recipient), its successors and assigns. Failure to fulfill these requirements shall subject the (applicant) (recipient), its contractors and subcontractors, its successors, and assigns to the sanctions specified by the (contract) (agreement), and to such sanctions as are specified by 24 CFR Section 135

D. Attachment to this certification: **Bidder's Section 3 action plan.** Submission of a detailed plan shall be attached to and becomes a part of this certification.

**APPLICANT:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## E-MAIL/CONTACTS

Section 3 Compliance Office  
Gary Deavers  
[gdeavers@harrisburghousing.org](mailto:gdeavers@harrisburghousing.org)

Resident Relations Office  
Dena Dupert  
[ddupert@harrisburghousing.org](mailto:ddupert@harrisburghousing.org)

Procurement Department  
Lori Shope  
[loris@harrisburghousing.org](mailto:loris@harrisburghousing.org)

Milt Reisser  
[miltr@harrisburghousing.org](mailto:miltr@harrisburghousing.org)

Christine Campbell  
[christinec@harrisburghousing.org](mailto:christinec@harrisburghousing.org)

Modernization  
Robert Grosko  
[robertg@harrisburghousing.org](mailto:robertg@harrisburghousing.org)